

# Notice of Allowability

Application No.

10/623,045

Examiner

Robert D. Harlan

Applicant(s)

SMILLIE, BENJAMIN ANDREW

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_\_.
2. ☒ The allowed claim(s) is/are 1-5 and 11-15.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Art Unit: 1713

### DETAILED ACTION

#### *Allowable Subject Matter/Reasons for Allowance*

1. Claims 1-5 and 11-15 are allowed.
2. The following is an examiner's statement of reasons for allowance: The closest prior art located or identified by the Examiner is Kanzawa et al., U.S. Patent No. 6,310,167 (hereinafter "Kanzawa"). Kanzawa discloses ethylene homopolymers having well-balanced properties of good heat resistance, heat-sealability and moldability. See Kanzawa, Abstract; col. 2, lines 16-21. Kanzawa further discloses ethylene homopolymers characterized in that the number of butyl branches per 100 methyl branches fall between 1 and 20, density between 880 and 980 kg/m<sup>3</sup> and melting point dependent upon polymer density. See Kanzawa, Abstract; col. 2, line 16 through col. 3, line 26. Kanzawa further discloses molded articles (e.g. films, sheets, containers) prepared by molding the ethylene homopolymers. See Kanzawa, col. 14, line 46 through col. 16, line 36. Although Kanzawa does not disclose all the characteristics and properties of the articles disclosed in the present claims or a process for lowering the heat sealing

Art Unit: 1713

temperate of the homopolymer, based on the substantially identical process using substantially identical catalysts and co-catalysts, the Examiner would have a reasonable basis to believe that the properties claimed in the present invention is inherent in the molded articles of ethylene homopolymers disclosed by Kanzawa. See Kanzawa, col. 6, line 54 through col. 14, line 45. However, the Declaration filed on 03/03/03 under 37 CFR 1.131 in parent Patent Application No. 09/655,106 is sufficient to overcome the Kanzawa reference.

3. As of the date of this Notice of Allowability, the Examiner has not located or identified any reference that can be used singularly or in combination with another reference including Kanzawa to render the present invention anticipated or obvious to one of ordinary skill in the art.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

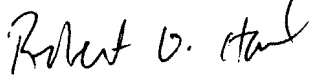
Art Unit: 1713

**Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert D. Harlan whose telephone number is (571) 273-1102. The examiner can normally be reached on Mon-Fri, 10 AM - 8 PM.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Wu can be reached on (571) 273-1114. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

7. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1495.

  
Robert D. Harlan  
Primary Examiner  
Art Unit 1713

rdh  
February 23, 2004